



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Berkshire Computer Products

File: B-246305

Date: February 28, 1992

Kenneth H. Chaffee, Esq., for the protester.
Vera Meza, Esq. and Lane Strong, Esq., Department of the Army, for the agency.
Jeanne W. Isrin, Esq., David Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Rejection of quote for alternate disk drive in a small purchase procurement was unobjectionable where the dimensions of the alternate item are different from those of the brand name item and the difference precludes mounting the alternate in the existing configuration storage cabinet without modifications or additions to the cabinet.

DECISION

Berkshire Computer Products protests purchase order No. DAAH03-91-P-4518, issued to The Newman Group by the Department of the Army for two Digital Equipment Corporation (DEC) RA90-NA disk drives. Berkshire claims that its lower-priced quote of an alternate item was improperly rejected as technically unacceptable.

We deny the protest.

The General Services Administration (GSA) originally synopsisized in the Commerce Business Daily (CBD) its intent to place an order against its nonmandatory GSA schedule contract with DEC for the "in cabinet" central processing unit upgrade of a VAX computer and for two DEC RA90-NA disk drives. In response to a request from Berkshire, the contracting specialist subsequently broke out the two DEC RA90-NA disk drives for separate purchase, and requested quotes. The agency received six quotes on the drives, including one from Berkshire; Berkshire quoted \$16,200 for DEC RA90-NA drives and \$11,800 for its LS/90 disk drives, which it offered as an alternate. However, the agency determined that the LS/90 disk drive was technically unacceptable as it would not mount correctly in the computer system's existing SA-600 storage cabinet.

In this regard, the Army reports that the required disk drives are to be used as an expansion of an existing configuration which includes an SA-600 cabinet containing brackets which hold the disk drives exactly in place. According to the agency, the DEC RA90-NA disk drive fits exactly in the SA-600 rack mount slides, which are 8.74 inches wide and accommodate drives 26.96 inches long by 10.42 inches high. In contrast, the LS/90 disk drive is 8 inches wide (by 23 inches long by 5.25 inches high). The Army determined that placing the 8-inch-wide LS/90 drive in the 8.74-inch-wide rack mount slide would permit excessive vibration, considered unacceptable for such sensitive equipment. The Army therefore concluded that the LS/90 disk drive could not be utilized in the existing configuration without modifications or additions to the cabinet. Consequently, the agency considered only Berkshire's quote for the DEC RA90-NA disk drives, which was not low.

Upon learning that a purchase order had been issued to The Newman Group on the basis of its low quote (\$13,170) for refurbished DEC RA90-NA drives, Berkshire filed an agency-level protest, claiming that its proposed LS/90 disk drive is the equivalent of the DEC RA90-NA, meeting or exceeding all of the Army's requirements, and that it therefore should have received the purchase order as the low quoter. After the agency-level protest was denied, Berkshire filed this protest with our Office on the same basis.

The contracting agency has the primary responsibility for determining its minimum needs and for determining whether an offered item will satisfy those needs, since it is the agency that is most familiar with the conditions under which the supplies or services will be used and that must bear the burden of difficulties incurred by reason of a defective evaluation. East West Research, Inc., B-239516, Aug. 29, 1990, 90-2 CPD ¶ 178; Rhine Air, B-226907, July 29, 1987, 87-2 CPD ¶ 110. The offeror of an alternate product bears the responsibility of affirmatively demonstrating the acceptability of the alternate product, Aero Components Co., B-243919, Aug. 14, 1991, 91-2 CPD ¶ 148, and we will not disturb an agency's technical determination in this regard unless it is shown to be unreasonable. East West Research, Inc., B-236723, Dec. 8, 1989, 89-2 CPD ¶ 531, aff'd, East West Research, Inc.--Recon., B-236723.2, Mar. 29, 1990, 90-1 CPD ¶ 338.

We find that the Army reasonably concluded that Berkshire's LS/90 disk drive was not an acceptable alternate. The descriptive literature furnished with Berkshire's quote clearly indicated that the firm's LS/90 disk drive was 8 inches wide, that is, narrower than the 8.74-inch rack


mount slides in the SA-600 cabinet. There was nothing in Berkshire's quote or the literature that indicated means by which the LS/90 disk drive could be mounted in the SA-600 cabinet, or even indicated that special mounting hardware was included in the quote.

Berkshire notes in its protest that the descriptive literature it furnished did include the general statement that the LS/90 disk drive "mounts in a DEC compatible 19 [inch] enclosure"; Berkshire maintains that this meant an enclosure with two 8.74-inch bays separated by a 1.5-inch center divider, the configuration of the SA-600 cabinet. Even accepting Berkshire's reading, however, this statement did not alleviate the agency's concern that the smaller drive would be subject to unacceptable vibration if mounted in the larger rack, and its finding that there was no indication of an acceptable alternate means of mounting the drive in the cabinet. Further, although Berkshire also asserts generally in its protest that the LS/90 disk drive can be mounted in the SA-600 cabinet, it does not refute the agency's determination that it cannot be acceptably mounted without special modification or mounting hardware. We conclude that the agency reasonably determined that the protester's LS/90 disk drive was not an acceptable alternate. See Chi Corp., B-228471, Feb. 22, 1988, 88-1 CPD ¶ 177 (agency reasonably required alternates to be compatible with other components in agency's computer system); See Advanced Seal Tech., Inc., B-242361 et al., Mar. 29, 1991, 91-1 CPD ¶ 341 (where data submitted to qualify alternate product is unclear or conflicting regarding compliance with requirements, the product is properly rejected as technically unacceptable).

Berkshire complains that, even if its disk drives could not be mounted in a SA-600 cabinet, its quote could not be rejected on this basis because the requirement to mount in a SA-600 cabinet was not listed in the CBD synopsis. This argument is not a basis for sustaining the protest since it is clear that Berkshire was not prejudiced by any alleged impropriety. In this regard, Berkshire neither asserts that it would have offered a different disk drive, nor specifically describes the modifications it would have made to its LS/90 disk drives had the CBD announcement indicated the storage array used by the agency. Rather, in light of Berkshire's position that its LS/90 drive is compatible with

the SA-600 cabinet, it appears the protester would have offered the same equipment in any case. See Merrick Engineering, Inc., B-238706.3, Aug. 16, 1990, 90-2 CPD ¶ 130.

The protest is denied.


for James F. Hinchman
General Counsel